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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/759,727

01/16/2004

Patrick Vogel

PD030019

8221

24498

7590

06/13/2008

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EXAMINER

FORDE, DELMA ROSA

ART UNIT

PAPER NUMBER

2828

MAIL DATE

DELIVERY MODE

06/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/759,727	<b>Applicant(s)</b> VOGEL ET AL.	
	<b>Examiner</b> Delma R. Fordé	<b>Art Unit</b> 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/16/2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of species in the reply filed on 03/13/2008 is acknowledged.

### ***Priority***

The priority has been considered by the examiner.

### ***Information Disclosure Statement***

The references cited in the Information Disclosure Statement (IDS) have been considered by the examiner.

### ***Drawings***

The drawings submitted on 03/13/2008 have been considered by the examiner.

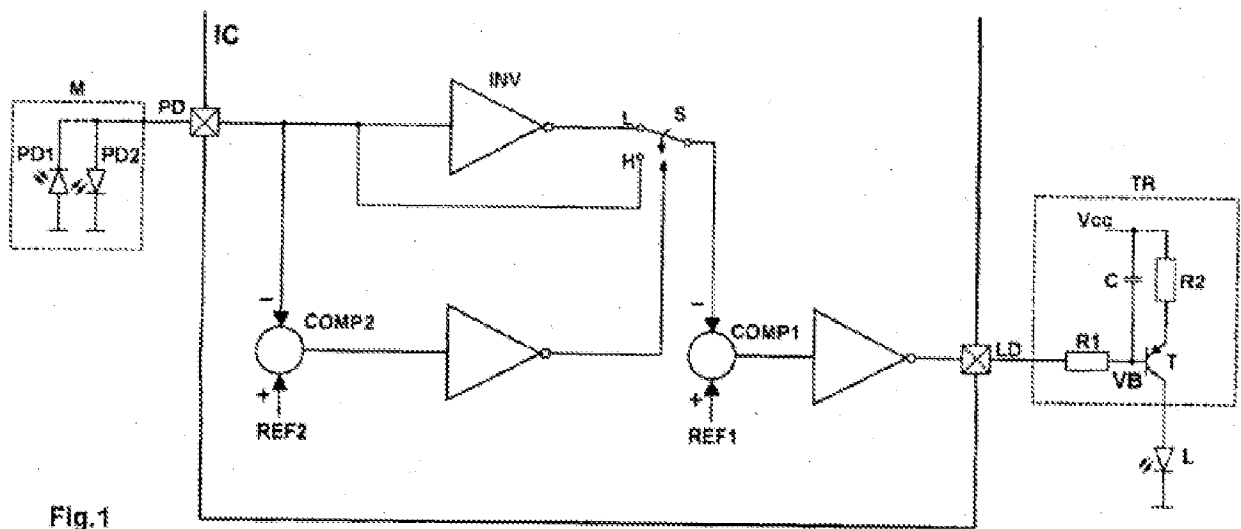
### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 - 3, 5 - 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lehn, Steffen et al. (EP 1111745 A1).



The examiner interpreted the claim with the first configuration of the circuit only, since the second configuration of the circuit is optional.

**Regarding claim 1,** Lehn on Figure 1 discloses a method for initializing a control of a supply voltage of a light source, such as a laser diode, the light source being arranged in a first circuit configuration having an associated first reference voltage level

the method comprising the steps of: gradually changing the supply voltage into the direction of the first reference voltage (see Figure. 1, Character TR, the reference call "driver"), measuring a light emission of the light source (see Figure. 1, Character L) while gradually changing the supply voltage (the functional recitation that "gradually changing the supply voltage" is insufficient to patentable distinguish the claimed apparatus from the apparatus disclosed by (SMITH)"because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth 35 U.S.C. 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. In re Fuller, 1929 C.D. 172; 388 O.G. 279), if no light emission is measured: starting the control of the supply voltage of the light source after the first reference voltage has been reached (abstract, Paragraphs [0002, 0005, 0008 and 0011]).

**Regarding claims 2 and 6,** Lehn on Figure 1 discloses a the first circuit configuration being an PNP type circuit configuration (see Figure. 1, Character TR, the reference call "driver").

**Regarding claims 3 and 7,** Lehn on Figure 1 discloses a light emission of the light source is measured by means of a photodiode (see Figure. 1, Characters PD1 and PD2).

**Regarding claim 5**, Lehn on Figure 1 discloses an electronic circuit for controlling a supply voltage of a light source, such as a laser diode, the light source being arranged in a first circuit configuration having an associated first reference voltage level, the electronic circuit comprising: means (see Figure. 1, Character TR, the reference call "driver") for gradually changing the supply voltage (the functional recitation that "gradually changing the supply voltage" is insufficient to patentable distinguish the claimed apparatus from the apparatus disclosed by (SMITH)"because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth 35 U.S.C. 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. In re Fuller, 1929 C.D. 172; 388 O.G. 279), into the direction of the first reference voltage (see Figure. 1, Character REF1) for initializing the control of the supply voltage, means (see Figure. 1, Characters Pd1 and PD2, the reference call "photodetectors") for detecting of a light emission of the laser diode (see Figure. 1, Character L, the reference call "light source") (abstract, Paragraphs [0002, 0005, 0008 and 0011]).

**Regarding claim 9**, Lehn on Figure 1 discloses a. An optical reader or optical recorder (Paragraphs [0001]) comprising a laser diode (see Figure. , Character L, the reference call, light source" Paragraphs [0001]) and an electronic circuit (see Figure. 1, Character IC) for controlling a supply voltage of the laser diode the light source being

Art Unit: 2828

arranged in a first circuit configuration having an associated first reference voltage level, and the electronic circuit includes means (see Figure. 1, Character TR, the reference call "driver") for gradually changing the supply voltage into the direction of the first reference voltage for initializing the control of the supply voltage (the functional recitation that "gradually changing the supply voltage into the direction of the first reference voltage for initializing the control of the supply voltage" is insufficient to patentable distinguish the claimed apparatus from the apparatus disclosed by (SMITH)"because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth 35 U.S.C. 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. In re Fuller, 1929 C.D. 172; 388 O.G. 279. ) (abstract, Paragraphs [0002, 0005, 0008 and 0011]).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delma R. Fordé whose telephone number is (571) 272-1940. The examiner can normally be reached on M - F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Min Sun Harvey can be reached on (571) -272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Delma R. Fordé/

Examiner, Art Unit 2828

/Minsun Harvey/

Supervisory Patent Examiner, Art Unit 2828